

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:10-cr-182

UNITED STATES OF AMERICA)	
)	
vs.)	<u>ORDER</u>
)	
MICHAEL T. RAND)	
)	
_____)	

THIS MATTER is before the Court on the defendant’s Motion to Dismiss Counts Six through Eleven (Doc. No. 44) and the government’s Response (Doc. No. 49). A magistrate judge issued a Memorandum and Recommendation (“M&R”), finding that the defendant’s motion be denied (Doc. No. 58), to which the defendant objects (Doc. No. 66) and the government responded (Doc. No. 68). For the reasons stated below, the Court will deny the defendant’s Motion to Dismiss.

Federal Rule of Criminal Procedure 59(b)(1) allows a district judge to refer to a magistrate judge for recommendation a motion to dismiss an indictment. When a party objects to a magistrate judge’s recommendation, a district court must consider the objection de novo. Fed. R. Crim. P. 53(b)(3).

Here, the magistrate judge recommended that the Motion to Dismiss be denied. The Court has conducted a de novo review of the objections and finds that the magistrate judge’s recommendation is correct based on the law and the facts of this case. Accordingly, the Court adopts the M&R as the final decision of this Court regarding the defendant’s Motion to Dismiss. Additionally, since the filing of the M&R, the government has moved to strike the allegation in

Counts Six and Eleven that the defendant obstructed a proceeding arising out of a federal securities fraud complaint (Doc. No. 87), mooted the defendant's objections on that issue.

IT IS, THEREFORE, ORDERED that the defendant's Motion to Dismiss Counts Six through Eleven (Doc. No. 44) the Indictment is **DENIED**.

Signed: September 27, 2011

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

